

**BEFORE THE
MISSOURI REAL ESTATE COMMISSION
STATE OF MISSOURI**

MISSOURI REAL ESTATE COMMISSION,)	
)	
Petitioner,)	
)	
vs.)	Case No. 14-0423 RE PV
)	
JAMES W. BENNETT,)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER**

Pursuant to notice the Missouri Real Estate Commission ("Commission") held a hearing on April 13, 2016, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining whether Respondent had violated the probationary terms of a prior Commission disciplinary order and if so, whether additional discipline of Respondent's license was warranted. All of the members of the Commission were present throughout the meeting. The Commission was represented by Assistant Attorney General Felicia Crawford-Randle. Respondent was properly and timely notified of the hearing. Respondent James W. Bennett did appear individually without legal counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues these following Findings of Facts, Conclusions of Law and Disciplinary Order.

I.

FINDINGS OF FACT

1. The Missouri Real Estate Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo,¹ for the purpose of carrying out and enforcing the provisions of §§ 339.010 to 339.205 and 339.710 to 339.855, RSMo, and the regulations promulgated thereunder, relating to real estate salespersons and brokers.

2. James W. Bennett holds a broker officer license from the Commission, license no. 1999056471. Respondent's broker officer license was not current at all times relevant to this proceeding. Respondent's broker officer license was suspended on December 11, 2014.

3. On December 11, 2014, the Commission issued its Findings of Fact, Conclusions of Law and Disciplinary Order (Order) ordering that Bennett's license be suspended for three years or until full restitution has been made to: Jon Tignor (\$10,000), Farrel Hastey (\$1,000), Charles Gerding, Jr (\$4,500), Karla Simpson (\$1,000), Barbara Brooks (\$5,000) prior to the conclusion of suspension period. The period of suspension is to be followed by three (3) years probation. The Order required James W. Bennett to submit proof of payments quarterly to the Commission regarding repayment of his debts. Bennett's license remains suspended because Bennett has not made full restitution. The Order also required Bennett to submit quarterly reports to the Commission demonstrating proof of his restitution payments.

4. James W. Bennett failed to submit quarterly reports to the Commission showing proof of payments being made, as required by Section III, Paragraph B of the Order. To date Bennet has submitted one report. That report only showed payment to one of the five individuals named in the Order.

5. James W. Bennett's failure to adhere to the terms of his probation by failing to submit

¹ All statutory references are to the Revised Statutes of Missouri, as amended, unless otherwise indicated.

quarterly reports to the Commission showing proof of payments being made on his debt is a violation of Paragraph B of Section III of the Order which provides cause to further discipline James W. Bennett's license under § 324.042, RSMo.

6. As a result of the foregoing, a Disciplinary Violation Complaint was filed with the Missouri Real Estate Commission alleging that grounds existed for additional disciplinary action against Bennett's Missouri real estate license, pursuant to § 324.042, RSMo.

7. The Commission set this matter for hearing and served notice of this disciplinary hearing upon Respondent in a proper and timely fashion.

8. On April 13, 2016, The Commission held the disciplinary violation hearing at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri. Bennett testified at the hearing. Bennett acknowledged that he failed to meet the requirements of the Order in that he failed to make restitution to all five (5) individuals and failed to submit quarterly reports to the Commission.

II.

CONCLUSIONS OF LAW

9. James W. Bennett's failure to adhere to the terms of his probation by failing to submit quarterly reports to the Commission showing proof of payments being made on his debt and failing to make payments to all five (5) debtors are violations of the terms of the Order which provides cause to further discipline James W. Bennett's license under § 324.042, RSMo.

10. Pursuant to § 324.042, RSMo and the Order page 7, the Commission has authority to impose additional discipline against James W. Bennett, for violating any disciplinary terms previously imposed or agreed to pursuant to the Order with the licensee.

11. Section 324.042, RSMo, provides:

Any board, commission or committee within the division of professional registration may impose additional discipline when it finds after hearing

that a licensee, registrant or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

12. Section 339.100.3, RSMo, provides the Commission may discipline a real estate license after an initial disciplinary hearing by revoking, probating or suspending said license.

13. The Commission finds Respondent James W. Bennett has violated the terms and conditions of the Order that became effective December 11, 2014 as a result of the conduct identified in the Findings of Fact set forth above.

14. The Commission has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

Therefore, having fully considered all the evidence before the Commission, it is the ORDER of this Commission that:

15. The real estate license of Respondent James W. Bennett, license number 1999056471, shall remain **SUSPENDED** until full restitution as been made to: Jon Tignor (\$10,000), Farrel Hastey (\$1,000), Charles Gerding, Jr (\$4,500), Karla Simpson (\$1,000), Barbara Brooks (\$5,000) or through December 11, 2017. The period of suspension shall now be followed by additional two (2) years probation for a total of **FIVE (5) YEARS PROBATION**. The period of suspension and probation shall constitute the "disciplinary period". During the period of probation, Respondent shall be entitled to practice only as a real estate broker and real estate corporation, respectively, under Chapter 339, RSMo, as amended, provided Respondents adhere to all terms of this Order.

The terms and conditions of the disciplinary period are as follows:

A. Respondent James W. Bennett shall make payments to all of the following on at least a quarterly basis: Jon Tignor (\$10,000); Farrel Hastey (\$1,000); Charles Gerding, Jr (\$4,500); Karla Simpson (\$1,000); and Barbara Brooks (\$5,000). Respondent shall submit evidence of such payments to all five (5) debtors quarterly to the MREC office. Full repayment of the debts shall be made no later than December 11, 2017. Bennett is responsible for ensuring that the evidence of restitution payments is reported to the Commission on or before January 10, April 10, July 10, and October 10 during the suspension period. Bennett shall submit the first such reporting by July 10, 2016.

B. Respondent shall keep the Commission apprised at all times, in writing, of Respondents' current addresses and telephone numbers at each place of residence and business. Respondents shall notify the Commission within ten (10) days of any change in this information.

C. Respondents shall timely renew their real estate licenses, timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain their licenses in a current and active status. During the disciplinary period, Respondent James W. Bennett shall not place his real estate license on inactive status as would otherwise be allowed under 20 CSR 2250-4.040 or 20 CSR 2250-4.050. Alternatively without violating the terms and conditions of this Order Respondent James W. Bennett may surrender his real estate license. After surrender, Respondent James W. Bennett shall be required to re-qualify as if an original applicant and the Commission will not be precluded from basing its decision, wholly or partially, on the findings of fact, conclusions of law, and disciplinary set forth in this Order.

D. Respondent shall meet in person with the Commission or its representative at any such time or place as required by the Commission or its designee upon notification from the Commission or its designee. Said meetings will be at the Commission's discretion and may occur periodically during the probation period.

E. During the disciplinary period, Respondent shall accept and comply with

unannounced visits from the Commission's representative to monitor compliance with the terms and conditions of this Order.

F. Respondent shall comply with all relevant provisions of Chapter 339, RSMo, as amended, all rules and regulations duly promulgated thereunder, all local, state, and federation laws. "State" as used here in includes the State of Missouri and all other states and territories of the United States. Any cause to discipline Respondents' real estate license under §339.532.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Order.

G. Upon the expiration and successful completion of the disciplinary period, Respondents' respective real estate broker license and real estate corporation license shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the Commission determines that Respondents have violated any term or condition of this Order, the Commission may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Respondents' real estate broker officer license and real estate corporation license.

No additional discipline shall be imposed by the Commission pursuant to the preceding paragraph of this Order without notice and opportunity for hearing before the Commission as a contested case in accordance with the provisions of Chapter 536, RSMo.

This Order does not bind the Commission or restrict the remedies available to it concerning any future violations by Respondents of §§ 339.010 through 339.205 and §§ 339.710 through 339.855, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Order.

This Order does not bid the Commission to restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Order that are either now known to the Commission or may be discovered.

Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

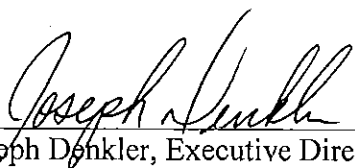
The terms of this Order are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Order nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharger, or termination is sought.

The parties to this Order understand that the Commission will maintain this Order as an open record of the Commission as provided in Chapters 339, 610, and 324, RSMo.

Respondents together with their partners, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the Commission, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Order. The parties acknowledge that this paragraph is severable from the remaining portions of the Order in that it survives in perpetuity even in the event that any court or administrative tribunal deems this Order or any portion thereof void or unenforceable.

16. The Commission will maintain this Order as an open record of the Commission as provided in Chapters 339, 610, and 324, RSMo.

So Ordered this 20th day of April 2016.



Joseph Denkler, Executive Director
Missouri Real Estate Commission